

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GARY WAYNE SUTTON)
)
Petitioner,)
v.) No. 3:06-cv-388
) (VARLAN/SHIRLEY)
RICKY BELL, WARDEN,)
) DEATH PENALTY
Respondent.)

ORDER

Gary Wayne Sutton (“Petitioner”) has filed an amended petition for writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 24).¹ Petitioner’s counsel has filed a third motion for discovery (Doc. 54) which Respondent does not oppose (Doc. 60). Respondent does, however, request that any documents produced by the Tennessee Bureau of Investigation (“TBI”) in response to any subpoena be deemed confidential material which shall be used only for the purpose of the proceedings associated with the above-captioned cause and shall not be disclosed to any other person except upon further order of the Court.²

¹ Petitioner’s original habeas petition (Doc. 14) has been supplanted by his amended petition (Doc. 24), thus rendering his original petition a nullity. *See King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994) (“An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.”).

² Under Tenn. Code Ann. § 10-7-504(a)(2), investigative records of the Tennessee Bureau of Investigation are confidential records not subject to disclosure except pursuant to an order of a court of record.

Petitioner specifically requests discovery of the following records of the TBI: (1) TBI file ME-95-716, and (2) TBI records containing correspondence or investigation information regarding Dr. Harlan.

Accordingly, Petitioner's third motion for discovery requesting TBI file ME-95-716 and TBI records containing correspondence or investigation information regarding Dr. Harlan is **GRANTED** (Doc. 54). The TBI is **ORDERED** to produce the aforementioned documents to counsel for Petitioner **within ten days from the date of this Order**. It is further **ORDERED** that the Clerk **SHALL FAX** a copy of this Order to all counsel of record and Jeanne Broadwell, General Counsel to the TBI, at FAX number (615) 744-4500.

It is further **ORDERED** that these documents are confidential and are not to be used for any purpose other than for this litigation. Dissemination to persons who are not directly involved with counsel in this case is inappropriate and prohibited.

SO ORDERED.

E N T E R :

s/ C. Clifford Shirley, Jr.
C. Clifford Shirley, Jr.
United States Magistrate Judge